

### **REMARKS**

Claims 1-37 were pending in the application. Claims 1, 5 and 6 have been amended and claims 10 – 37 have been cancelled without prejudice. Upon entry of this amendment, claims 1-9 will be pending.

No new matter has been added. Claims 5 and 6 have been amended to clarify the invention. As discussed below, claim 1 has been amended to correct typographical errors.

Cancellation and/or amendment of the claims should in no way be construed as acquiescence to any of the Examiner's rejections. The cancellation and/or amendment of the claims are being made solely to expedite prosecution of the above-identified application. Applicants reserve the option to further prosecute the same or similar claims in the present or another patent application. The cancellation and/or amendment of the claims are not related to any issues of patentability.

Applicant thanks the Examiner for noting that the elected process is free of the prior art.

#### ***Rejection of the Claims under 35 U.S.C. §112, second paragraph***

##### **Claim 1**

The Examiner has rejected claim 1 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particular point out and distinctly claim the subject matter which the applicant regards as the invention. In particular, the Examiner asserts that the variables R, G and M are currently not part of the claimed invention and one of ordinary skill in the art would not know what they represent. Applicant notes that this rejection is moot with regard to the variable R in view of the deletion of this variable from claim 1.

Applicant has amended the hydroxyl portion of the carboxylic acid moiety of formula I to the variable G. Support for the amendment to formula I can be found, at least, at the disclosure of formula I on page 2 of the specification as originally filed. Applicant notes that this amendment also addresses the Examiner's rejection of the variable M.

Applicant has also amended claim 1 to replace the methyl group in formula IV with variable R'. Page 16, second paragraph of the specification provides the detailed and clear description of process step B and the reactants of formula XIII (containing variable R') with formula III to yield a product of formula IV. There are specific examples of the reactant of formula XIII, namely methane sulfonyl chloride and tosyl chloride, which provide sufficient evidence that the methane sulfonate in formula IV is a typographical error.

Accordingly, Applicant requests reconsideration and withdrawal of this rejection of claim 1 under 35 U.S.C. §112, second paragraph.

Application No.: 10/544,919  
Docket No.: NV2-0036US

Examiner: V. Rodriquez-Garcia  
Art Unit: 1626

Claims 5 and 6

The Examiner has rejected claims 5 and 6 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particular point out and distinctly claim the subject matter which the applicant regards as the invention. In particular, the Examiner asserts that there is insufficient antecedent basis in claim 2 for the limitations recited in claims 5 and 6.

In response, Applicant has amended claims 5 and 6 to depend from claim 4. Accordingly, Applicant respectfully request reconsideration and withdrawal of this rejection.

**SUMMARY**

It is respectfully submitted that this application is in condition for allowance. If there are any remaining issues or the Examiner believes that a telephone conference with Applicants' Attorney would be helpful in expediting prosecution of this application, the Examiner is invited to call the undersigned at (617) 227-7400.

Dated: February 6, 2009

Respectfully submitted,

Electronic signature: /Brian C. Trinque, Ph.D./  
Brian C. Trinque, Ph.D.  
Registration No.: 56,593  
LAHIVE & COCKFIELD, LLP  
One Post Office Square  
Boston, Massachusetts 02109-2127  
(617) 227-7400  
(617) 742-4214 (Fax)  
Attorney/Agent For Applicant